

Ant wherein the temperature sensor (2) is a platinum thin layer resistor mounted onto the outer side of the tube section (1).

REMARKS

Claims 1-14 are currently pending in the application as amended. Claims 4 and 5 have been amended to overcome rejections for indefiniteness. A verified English translation of the German priority application is being filed herewith. No new matter has been added with this amendment.

Information Disclosure Statement

At the outset Applicants direct the Examiner's attention to the Supplemental Information Disclosure Statement filed September 30, 2002, which crossed in the mail with the Office Action of September 26, 2002.

Election/Restrictions

Applicants confirm the provisional election of Species A, claims 1-11, made without traverse during a telephone conversation between the Examiner and William Schwarze on September 23, 2002. Claims 12-14 have not been cancelled, because claim 1 is generic and should now be allowable in view of the below remarks.

Claim Rejections – 35 U.S.C. § 112

The Examiner has rejected claims 4 and 5 under 35 U.S.C. § 112 as being indefinite. In claim 4, the Examiner found the limitation "a surface-mountable temperature sensor" confusing. Similarly in claim 5, the Examiner found the limitation "a temperature sensor" confusing. Applicants have amended claims 4 and 5 to make clear that the temperature sensor in each case is the temperature sensor (2) recited in claim 1. In light of the foregoing amendments, Applicants respectfully request that the rejection of claims 4 and 5 under 35 U.S.C. § 112 be withdrawn.

Claim Rejections – 35 U.S.C. § 103 – Claims 1-4, 6 and 11

The Examiner has rejected claims 1-4, 6 and 11 under 35 U.S.C. § 103(a) as being

unpatentable over U.S. Patent Application Publication No. 2002/0064206 A1 (Gysling *et al.*, hereinafter Gysling) in view of U.S. Patent No. 5,813,765 (Peel *et al.*, hereinafter Peel). Applicants respectfully traverse this rejection.

The filing date of Gysling is November 29, 2000. Applicants have claimed foreign priority herein from German Patent Application No. 100 29 186.4-52, filed on June 19, 2000. In accordance with 37 CFR 1.55 and MPEP § 201.15, Applicants submit herewith an accurate and verified English translation of German Application No. 100 29 186.4-52. Since the present application is virtually an exact translation of the German priority application, but with amended claims, the priority application fully supports the present claims. Therefore, the present application should be accorded an effective priority date of June 19, 2000. As the priority date of the application predates the effective date of Gysling, Applicants respectfully submit that Gysling is not prior art relative to the current application under 35 U.S.C. § 103(a). Peel alone fails to disclose all of the elements of claim 1 and claims 2-4, 6 and 11 depending therefrom. Thus, a *prima facie* case of obviousness has not been established with respect to claims 1-4, 6 and 11. Accordingly, Applicants request that the rejections of claims 1-4, 6 and 11 under 35 U.S.C. § 103(a) be withdrawn.

Claim Rejections – 35 U.S.C. § 103 – Claims 5 and 7-10

The Examiner has rejected claims 5 and 7-10 under 35 U.S.C. § 103(a) as being unpatentable over Gysling and Peel in further view of U.S. Patent No. 4,520,661 (Tamai *et al.*, hereinafter Tamai) (claim 5) and Gysling and Peel in further view of U.S. Patent No. 5,980,102 (Stulen *et al.*, hereinafter Stulen) (claims 7-10). Applicants respectfully traverse these rejections.

Gysling is not prior art relative to the present application, as the effective date of Gysling is after the effective date of the present application. Tamai alone fails to disclose each and every element of claim 5 and Stulen alone fails to disclose each and every element of claims 7-10. Thus, a *prima facie* case of obviousness has not been established. Accordingly, Applicants request that the rejections of claims 5 and 7-10 under 35 U.S.C. § 103(1) be withdrawn.

CONCLUSION

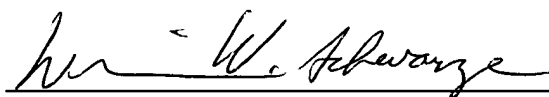
Since generic claim 1 is allowable, Applicants request rejoinder of Species B, claims 12-14 which are dependent from claim 1. In view of the foregoing remarks, Applicants respectfully submit that the present application, including claims 1-14, is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

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January 15, 2003
(Date)

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Enclosures

Verified English Translation of German Application No. 100 29 186.4-52

MARKED-UP VERSION OF AMENDED CLAIMS

4. (Amended) The temperature measuring device according to claim 1, wherein the temperature sensor (2) is a surface-mountable temperature sensor [(2) is] mounted on the tube section (1).

5. (Amended) The temperature measuring device according to claim 4, wherein the temperature sensor (2) is a platinum thin layer resistor [is] mounted [as a temperature sensor (2)] onto the outer side of the tube section (1).